



Matt Blunt, Governor • Doyle Childers, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

MAR 07 2008

CERTIFIED MAIL – 7001 2510 0005 3344 2999
RETRUN RECEIPT REQUESTED

Mr. Tom Smith
Greenleaf, L.L.C.
13960 Palm Road
Neosho, MO 64850-8660

NOTICE OF VIOLATION #5576E

Dear Mr. Smith:

On January 15 and 16, 2008, representatives of the Missouri Department of Natural Resources' Southwest Regional Office and the department's Hazardous Waste Program conducted a site visit to evaluate concerns with the management and storage of agricultural chemicals at the Greenleaf, L.L.C., facility located at 13960 Palm Road in Neosho, Missouri. As a result of the inspection, violations of Missouri Hazardous Waste Laws and Regulations were identified. Due to violations on site, Notice of Violation #5576E is being issued to Greenleaf, L.L.C. A detailed explanation of the violations identified during the site visit and a site summary memorandum are also enclosed.

Due to the serious nature of the violations identified during the inspection, these matters have been referred to the department's Hazardous Waste Program, Compliance and Enforcement Section, for evaluation and resolution.

Within 15 days, a written response to each violation listed on the enclosed Notice of Violation, is to be submitted to Ms. Candace Bias at the Missouri Department of Natural Resources, Hazardous Waste Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, Missouri 65102-0176. The response is to be very specific and provide a detailed account of the actions to be taken or provide the documentation necessary to comply with the required action. The response should also outline what changes have been implemented to ensure that future operations are in compliance with environmental laws and regulations.



RESP-RECEIVED
MAR 12 2008

Mr. Tom Smith
Page Two

If you have questions, or wish to discuss what enforcement action may be taken, please contact Ms. Bias by telephone at (573) 751-3465, or by mail at the address previously mentioned.

Sincerely,

HAZARDOUS WASTE PROGRAM

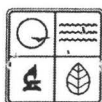


Kathy S. Flippin
Chief
Compliance and Enforcement Section

KSF:cbm

Enclosures

- c: Mr. Paul Bailey, Missouri Department of Agriculture,
Bureau of Pesticide
Hazardous Waste Program, Enforcement Unit
Ms. Beth Koesterer, Environmental Protection
Agency, Region 7
Solid Waste Management Program
Ms. Mary Jane Wingett, Environmental Protection
Agency



STATE OF MISSOURI
MISSOURI DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF VIOLATION PURSUANT TO REQUIREMENTS OF THE MISSOURI
HAZARDOUS WASTE MANAGEMENT LAW, RULES AND REGULATIONS**

FACILITY NAME Greenleaf, L.L.C.		NOTICE OF VIOLATION NUMBER 5576E Page 2 of 2	
ADDRESS 13960 Palm Road	CITY Neosho	STATE MO	ZIP CODE 64850-8660
EPA ID NUMBER MOR000526152	MISSOURI ID NUMBER 042018	DATE OF INSPECTION January 15, 2008	

During an inspection and/or a review of information or documentation completed this date to determine compliance with the requirements of the Missouri Hazardous Waste Management Law, Sections 260.350-260.550, RSMo and/or the Rules and Regulations at 10 CSR 25, the following violations were identified. The 40/49 CFR regulations cited below have been adopted by reference in the Missouri Hazardous Waste Regulations.

CITATION	DESCRIPTION OF VIOLATION
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(2)	Failure to include the date of accumulation on containers of hazardous waste.
10 CSR 25-5.262(2)(C)2.C.(I) and (II) referencing 40 CFR 265.174.	Failure to inspect and maintain the facility weekly.
10 CSR 25-5.262(2)(C)2.C.(II)	Failure to conduct a daily inspection of areas subject to spills, i.e. waste handling areas.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.35	Failure to provide adequate aisle space.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.31	Facility not operated and maintained to minimize the possibility of an emergency.
10 CSR 25-5.262(2)(C)2.E	Failure to provide adequate and proper spill control, decontamination and safety equipment.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.16(a)(3)	Failure to train personnel to respond to emergencies including the use of alarm systems, emergency equipment and contingency plan.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.16(a)(2)	Failure to ensure the program director is trained in hazardous waste management procedures.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.53(a)	Failure to maintain a contingency plan on-site.

This information is provided to call your attention to those areas of noncompliance at the earliest possible time. This notice does not constitute a compliance order issued pursuant to Section 260.410, RSMo and may not be a complete listing of all violations which may be identified as a result of this inspection.

The owner/operator is hereby requested to submit in writing within 15 days of receipt of this notice a description of all corrective actions taken and/or a schedule for completion of necessary corrective actions to be submitted to: Ms. Candace Bias

Department of Natural Resources, Hazardous Waste Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, MO 65102-0176, with a copy to the Southwest Regional Office, 2040 West Woodland, Springfield, MO 65807-5512.

If you have any questions about this notice or wish to discuss your response, you may call me at 573-751-3465

Signature of Preparer: Candace Bias Date: 03/07/08

Printed Name of Preparer: Ms. Candace Bias

The undersigned person hereby acknowledges that he/she received a copy of this Notice and has read same.

SIGNATURE (PERSON RECEIVING NOTICE)	PRINTED NAME (PERSON RECEIVING NOTICE)
SENT CERTIFIED MAIL # 7001 2510 0005 3344 2999	Mr. Tom Smith, Greenleaf, L.L.C.
TITLE OR POSITION	DATE



STATE OF MISSOURI
MISSOURI DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF VIOLATION PURSUANT TO REQUIREMENTS OF THE MISSOURI
HAZARDOUS WASTE MANAGEMENT LAW, RULES AND REGULATIONS**

FACILITY NAME Greenleaf, L.L.C.		NOTICE OF VIOLATION NUMBER 5576E Page 1 of 2	
ADDRESS 13960 Palm Road	CITY Neosho	STATE MO	ZIP CODE 64850-8660
EPA ID NUMBER MOR000526152	MISSOURI ID NUMBER 042018	DATE OF INSPECTION January 15, 2008	

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CITATION	DESCRIPTION OF VIOLATION
10 Code of State Regulations (CSR) 25-5.262(1) incorporating 40 Code of Federal Regulations (CFR) 262.11	Failure of a generator of a solid waste to determine if that waste is a hazardous waste.
Section 260.390.1(1) Revised Statutes of Missouri (RSMo)	Operation as a treatment, storage or disposal facility without prior approval from the department.
10 CSR 25-4.261 incorporating 40 CFR 261.1(c)(8)	Facility accumulating materials speculatively.
10 CSR 25-4.261 incorporating 40 CFR 261.2(f)	Facility not able to demonstrate legitimate recycling.
10 CSR 25-5.262(2)3.B	Facility did not update notification as required.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(1) referencing 40 CFR 265.171	Failure to store hazardous waste in containers in good condition.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(1) referencing 40 CFR 265.173(a)	Failure to keep containers of hazardous waste closed during storage.
10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(3)	Containers not marked "Hazardous Waste."
10 CSR 25-5.262(2)(C)1	Containers not packaged/labeled/marked per Department of Transportation during entire on-site storage period.
Continued on page two	

This information is provided to call your attention to those areas of noncompliance at the earliest possible time. This notice does not constitute a compliance order issued pursuant to Section 260.410, RSMo and may not be a complete listing of all violations which may be identified as a result of this inspection.

The owner/operator is hereby requested to submit in writing within 15 days of receipt of this notice a description of all corrective actions taken and/or a schedule for completion of necessary corrective actions to be submitted to: Ms. Candace Bias

Department of Natural Resources, Hazardous Waste Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, MO 65102-0176, with a copy to the Southwest Regional Office, 2040 West Woodland, Springfield, MO 65807-5512.

If you have any questions about this notice or wish to discuss your response, you may call me at 573-751-3465

Signature of Preparer:  Date: 03/08/08

Printed Name of Preparer: Ms. Candace Bias

The undersigned person hereby acknowledges that he/she received a copy of this Notice and has read same.

SIGNATURE (PERSON RECEIVING NOTICE)	PRINTED NAME (PERSON RECEIVING NOTICE)
SENT CERTIFIED MAIL #7001 2510 0005 3344 2999	Mr. Tom Smith, Greenleaf, L.L.C.
TITLE OR POSITION	DATE

DETAILED HAZARDOUS WASTE VIOLATIONS

Greenleaf, L.L.C., Neosho, Missouri

Notice of Violation #5576E

- 1) Failure of a generator of a solid waste to determine if that waste is a hazardous waste; 10 Code of State Regulations (CSR) 25-5.262(1) incorporating 40 Code of Federal Regulations (CFR) 262.11. The facility must use either knowledge of the waste or analytical testing to determine if the waste is hazardous and use the correct disposal methods of wastes generated. The following materials are wastes that have not undergone an accurate determination:
 - A. Materials that Mr. Applegarth stated he could not use (see photographs 3, 5, and 6);
 - B. Floor sweepings (see photograph 4);
 - C. Spilled material (see photographs 5 and 16 through 19);
 - D. Pesticides under a Stop Sale, Use, or Removal Order (SSURO) that cannot legitimately be used by Greenleaf (see photographs 7 through 11);
 - E. Liquid waste in 55-gallon drums and in consumer packaging (see photographs 12 through 15); and
 - F. Aerosol cans (see photograph 12).
- 2) Operation as a treatment, storage, or disposal (TSD) facility without prior approval from the department; Section 260.390(1) Revised Statutes of Missouri (RSMo). The following actions are considered treatment, storage, and disposal of hazardous waste at the facility and operation as a TSD facility without a permit from the department.
 - A. Greenleaf received hazardous waste, specifically liquid Sevin containing carbaryl, a U279 listed hazardous waste (see photograph 15).
 - B. Greenleaf stored hazardous waste in an unpermitted containment building. Without a permit, Greenleaf may only contain hazardous waste in containers or tanks. Greenleaf stored a listed hazardous waste (U279) in a pile. It is also likely that the pile of "Weed and Feed" is a toxic hazardous waste for 2,4-D (see photographs 7 through 9).
 - C. Consolidating liquid hazardous waste with non-hazardous waste liquid for disposal (see photographs 12 through 15).
- 3) Materials were accumulated speculatively; 10 CSR 25-4.261 incorporating 40 CFR 261.1(c)(8). Greenleaf did not have a feasible means of recycling the pesticides that it received from Wal-Mart. They were not in compliance with pesticide regulations, did not have the proper equipment, and did not have enough employees to recycle pesticides properly. In addition, Greenleaf had no intention of recycling the liquid pesticide and fertilizer that they had on site. They had no packaging or bottling equipment for liquids. In 2007, Greenleaf shipped 192, 55-gallon drums of liquid pesticide and fertilizer as waste. Aerosol cans were present on site. Aerosol cans cannot be recycled by Greenleaf due to their packaging. The aerosol cans are being accumulated speculatively (see photographs 7 through 17).
- 4) Facility not able to demonstrate legitimate recycling; 10 CSR 25-4.261 incorporating 40 CFR 261.2(f). Greenleaf did not have a feasible means of recycling the pesticide waste that it received from Wal-Mart. They were not in compliance with pesticide regulations, did not have the proper equipment, and did not have enough employees to recycle pesticides properly.

The facility did not demonstrate that there was a known market for their pesticides. Greenleaf does not have an established customer base beyond the local market and pesticides that are not in compliance with pesticide law cannot be sold. In addition, Greenleaf had no intention of recycling the liquid pesticide and fertilizer that they had on site. They had no packaging or bottling equipment for liquids. In 2007, Greenleaf shipped 192, 55-gallon drums of liquid pesticide and fertilizer as waste. Aerosol cans were present on site. Aerosol cans cannot be legitimately recycled by Greenleaf due to their packaging (see photographs 7 through 17).

DETAILED HAZARDOUS WASTE VIOLATIONS

Greenleaf, L.L.C.

Neosho, Missouri

Notice of Violation #5576E

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- 5) Facility did not update generator notification as required; 10 CSR 25-5.262(2)3.B. Greenleaf registered as a large quantity generator in April 2007. Greenleaf did not update their waste codes to reflect the hazardous waste that they generate. Greenleaf generates a U279 listed waste and likely generates a toxic characteristic hazardous waste D016 for 2,4-D.
- 6) Failure to store hazardous waste in containers in good condition; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(1) referencing 40 CFR 265.171. If a container is noted to be in poor condition or begins to leak, the contents must be transferred to a container that is in good condition. Numerous containers of liquid waste were leaking, including a container of Sevin which contains carbaryl, a U279 listed hazardous waste (see photograph 15). The liquid Sevin was identified as a waste by Mr. Applegarth along with the rest of the liquids on site. No liquids were intended for recycling at Greenleaf.
- 7) Failure to keep containers of hazardous waste closed during storage; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(1) referencing 40 CFR 265.173(a). All waste containers must be closed in such a way as to prevent spillage, minimize volatilization, and minimize employee contact with the waste. A container of liquid Sevin which contains carbaryl, a U279 listed hazardous waste, was stored in a plastic bag located in a cardboard box (see photograph 15). This does not meet the definition of closed container.
- 8) Failure to clearly mark containers as hazardous waste; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(3). The container of liquid Sevin was not marked "Hazardous waste" (see photograph 15).
- 9) Failure to package/label/mark waste per Department of Transportation (DOT) regulations during the entire on-site storage period; 10 CSR 25-5.262(2)(C)1. The container of liquid Sevin was not labeled per DOT regulations during the entire on-site storage period (see photograph 15).
- 10) Failure to include the beginning date of accumulation on containers of hazardous waste; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(2). The beginning date of accumulation must be provided on all containers of hazardous waste during the entire on-site storage period. The container of liquid Sevin was not identified with a date of when it was determined to be a waste (see photograph 15).
- 11) Failure to inspect and maintain the facility (weekly); 10 CSR 25-5.262(2)(C)2.C.(I) and (II) referencing 40 CFR 265.174. The regulations require that the inspection identify the types of problems that are to be looked for, identify the person making the inspections, a notation of observations, and the date of any repairs or remedial actions. Inspections were not done of waste storage areas at Greenleaf (see photographs 16 through 20).
- 12) Failure to conduct a daily inspection of areas subject to spills, i.e. waste handling areas; 10 CSR 25-5.262(2)(C)2.C.(II). No daily inspections were being conducted on the north end of Building 2, where liquid spills were observed. Numerous spills were apparent throughout the facility and were not cleaned up (see photographs 16 through 20).
- 13) Failure to provide adequate aisle space; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.35. Hazardous waste must be stored so that there is adequate aisle space to allow the unobstructed movement of personnel and emergency equipment in and around the containers. The pallets, containers, and boxes in and around Buildings 1, 2, and 3 were stored in such a manner as to obstruct the movement of personnel and emergency equipment (see photographs 1, 2, 16 and 19).

DETAILED HAZARDOUS WASTE VIOLATIONS

Greenleaf, L.L.C.

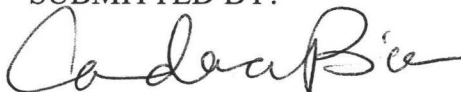
Neosho, Missouri

Notice of Violation #5576E

Page Three

- 14) Failure to operate and maintain the facility to minimize the possibility of an emergency; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.31. The condition of the containers of waste, the observed leakage and spillage, and open containers document the facility was not being maintained to prevent an emergency as well as a lack of understanding of the hazardous waste regulations (see all photographs).
- 15) Failure to provide adequate and proper spill control, decontamination, and safety equipment (fire blankets, respirator, SCBA, absorbents, etc.); 10 CSR 25-5.262(2)(C)2.E. The facility is lacking in spill control and decontamination equipment. Information on the location and capabilities of the equipment must be provided in the Contingency Plan (see violation 17). There did not appear to be any decontamination equipment in Buildings 2 and 3 (see photographs 16 through 19).
- 16) Failure to train personnel to respond to emergencies including the use of alarm systems, emergency equipment, and contingency plan; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.16(a)(3). The facility did not provide training to the employees regarding hazardous materials and had not provided site specific training, teaching personnel to perform their duties in a way that ensures compliance with the hazardous waste regulations.
- 17) Failure to ensure the program director is trained in hazardous waste management procedures; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.16(a)(2). Personnel training must be directed by a person trained in hazardous waste management procedures and must include instruction, which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed. Mr. Applegarth did not express any knowledge or understanding of the hazardous waste regulations.
- 18) Failure to maintain a contingency plan on site; 10 CSR 25-5.262(1) incorporating 40 CFR 262.34(a)(4) referencing 40 CFR 265.53(a). All generators of more than 1,000 kilograms of hazardous waste or one kilogram of acutely hazardous waste or generators who accumulate that amount of waste must maintain a contingency plan. The plan must be designed to minimize hazards to human health or to the environment due to emergency situations at the facility. The requirements of the plan are listed in 40 CFR 265 Subpart D. A contingency plan has not been developed for this facility.

SUBMITTED BY:



Candace Bias
Environmental Specialist III
Enforcement Unit
Hazardous Waste Program

CB:ml

ATTACHMENT

1. Photographs 1 through 20

Photograph Enclosure for NOV #5576E
Greenleaf, L.L.C.
Neosho, MO



Picture 1

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: The area between Building 2 and Building 3 at Greenleaf. Notice the inadequate aisle space for personnel and emergency equipment.



Picture 2

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Inside Building 1 of the Greenleaf facility. Notice the inadequate aisle space for personnel and emergency equipment.



Picture 3

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of waste at Greenleaf, L.L.C.



Picture 4

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Floor sweepings in Building 1.



Picture 5

Date: January 15, 2008

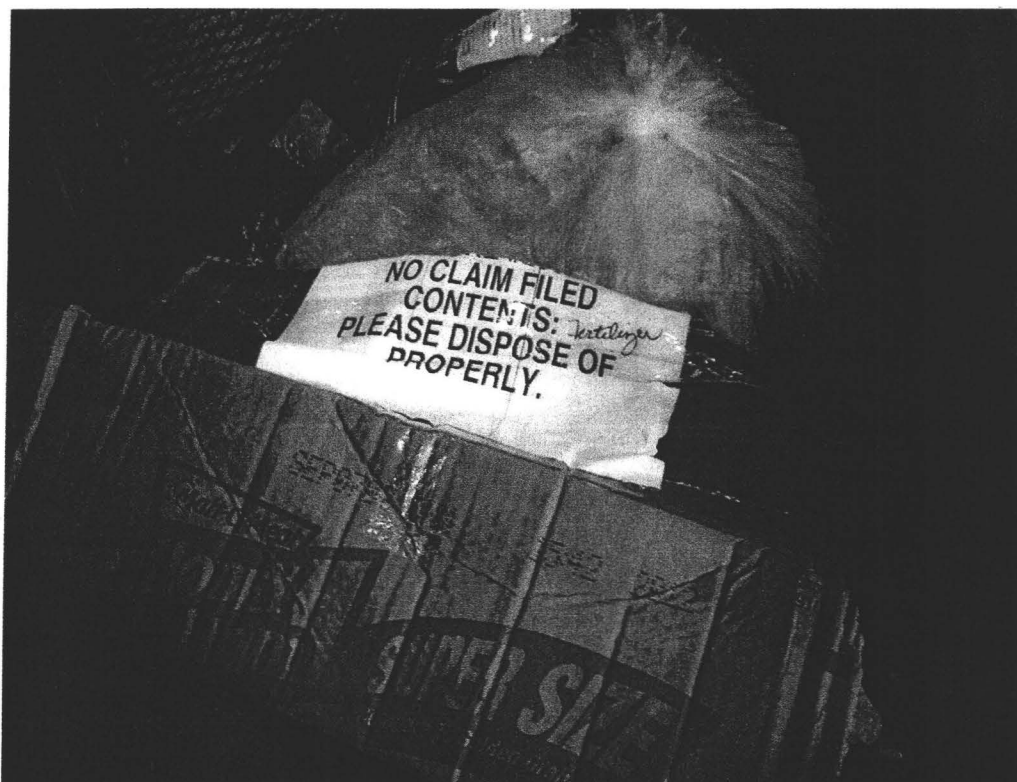
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of a Gaylord box with spilled pesticides and unidentified bags in Building 1.



Picture 6

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of unidentified material marked for disposal.



Picture 7

Date: January 16, 2008

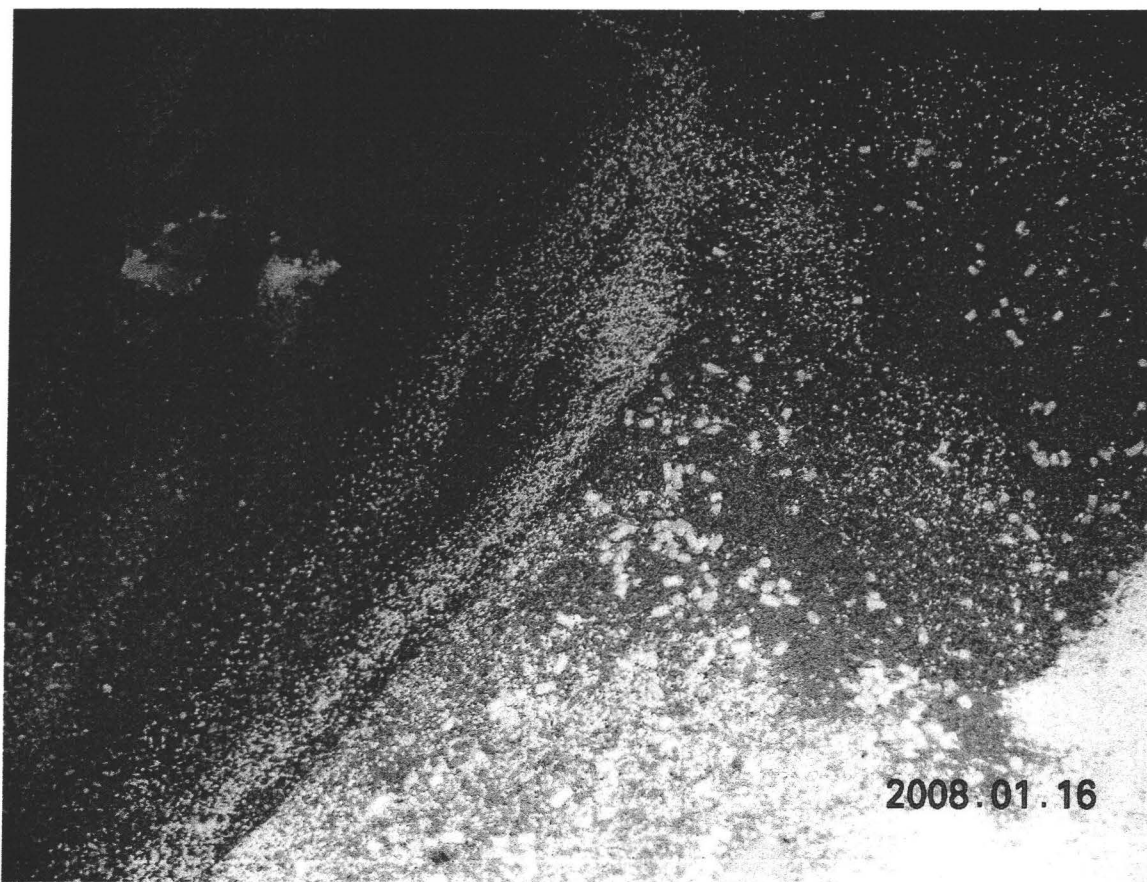
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: View of Pile 1 in Building 1. The pile is a mixture of granular pesticides under the Stop Sale, Use, or Removal Order (SSURO). The dry pesticide is from several different sources including Sevin, which contains carbaryl, a U279 listed hazardous waste.



Picture 8

Date: January 16, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Up close view of Pile 1 in Building 1. The pile is a mixture of granular pesticides placed under the SSURO. The dry material is from several different sources. Note multiple colors and sizes of grains.



Picture 9

Date: January 16, 2008

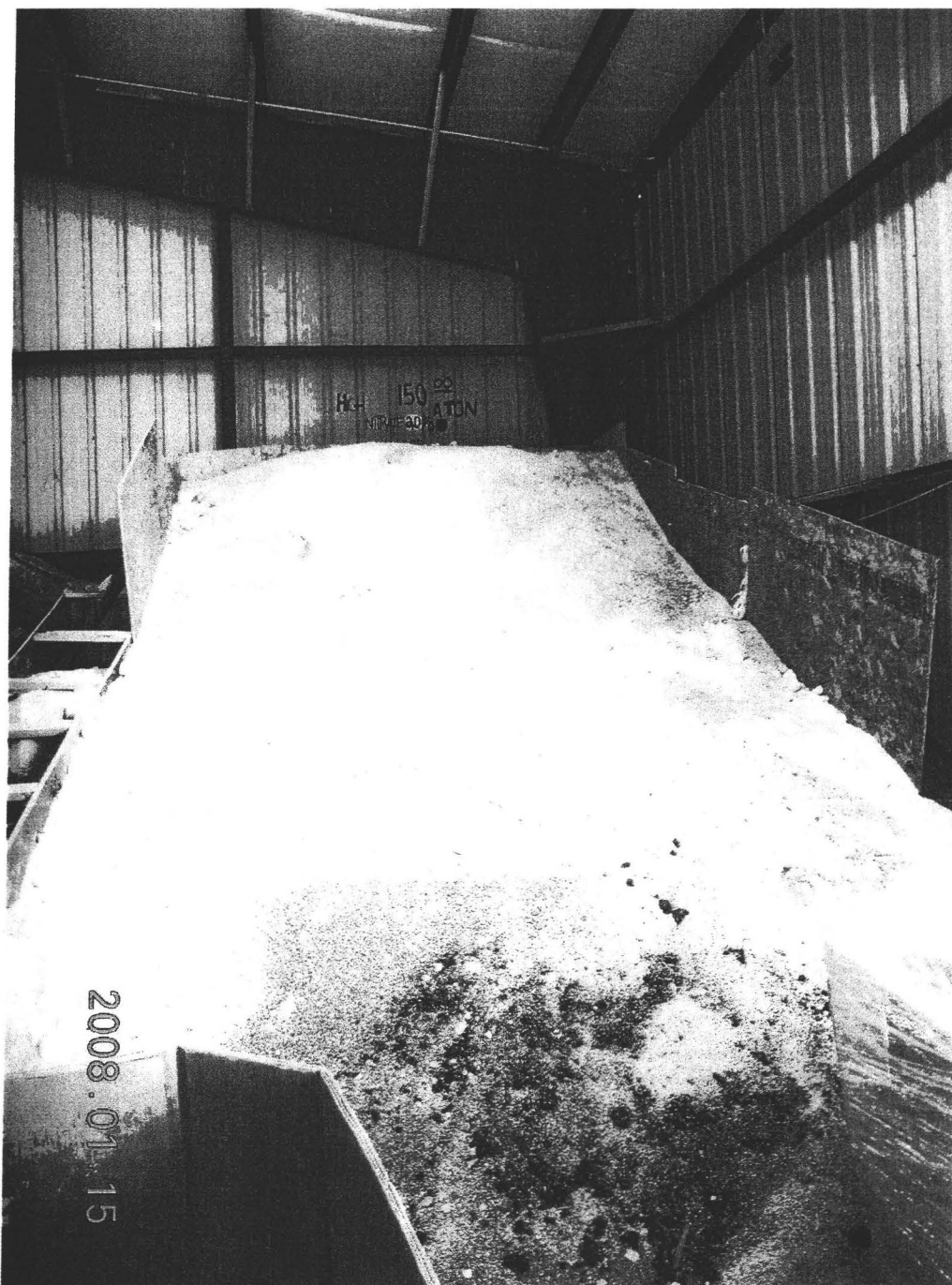
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Another up close view of Pile 1 in Building 1. The pile is a mixture of granular pesticides placed under the SSURO. The dry material is from several different sources. Note multiple colors and sizes of grains.



Picture 10

Date: January 15, 2008

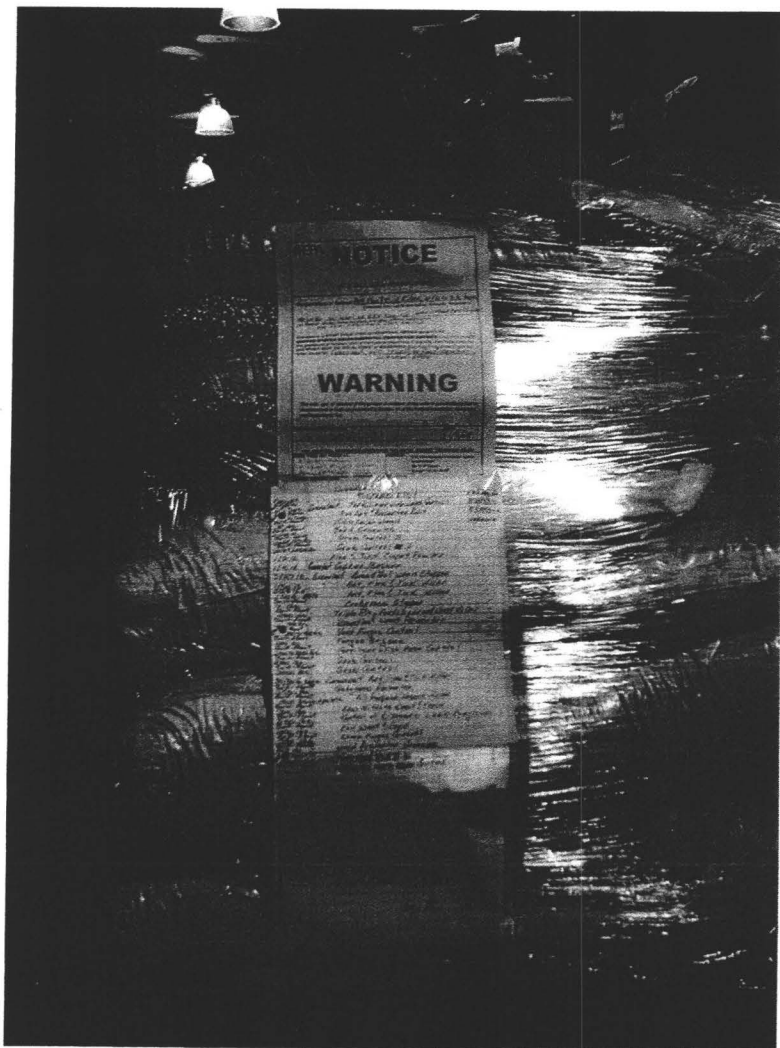
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: View of Pile 4 in Building 1. The pile is a mixture of granular pesticides placed under the SSURO. The pile is from several different sources and contains 2,4-D.



Picture 11

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: One of the pallets of pesticides placed under the SSURO in Building 1.



Picture 12

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Drums of waste liquid and aerosol cans in Building 2.



Picture 13

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Drums of waste liquid in storage in Building 2.



Picture 14

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: Drums of waste liquid in storage in Building 3.



Picture 15

Date: January 16, 2008

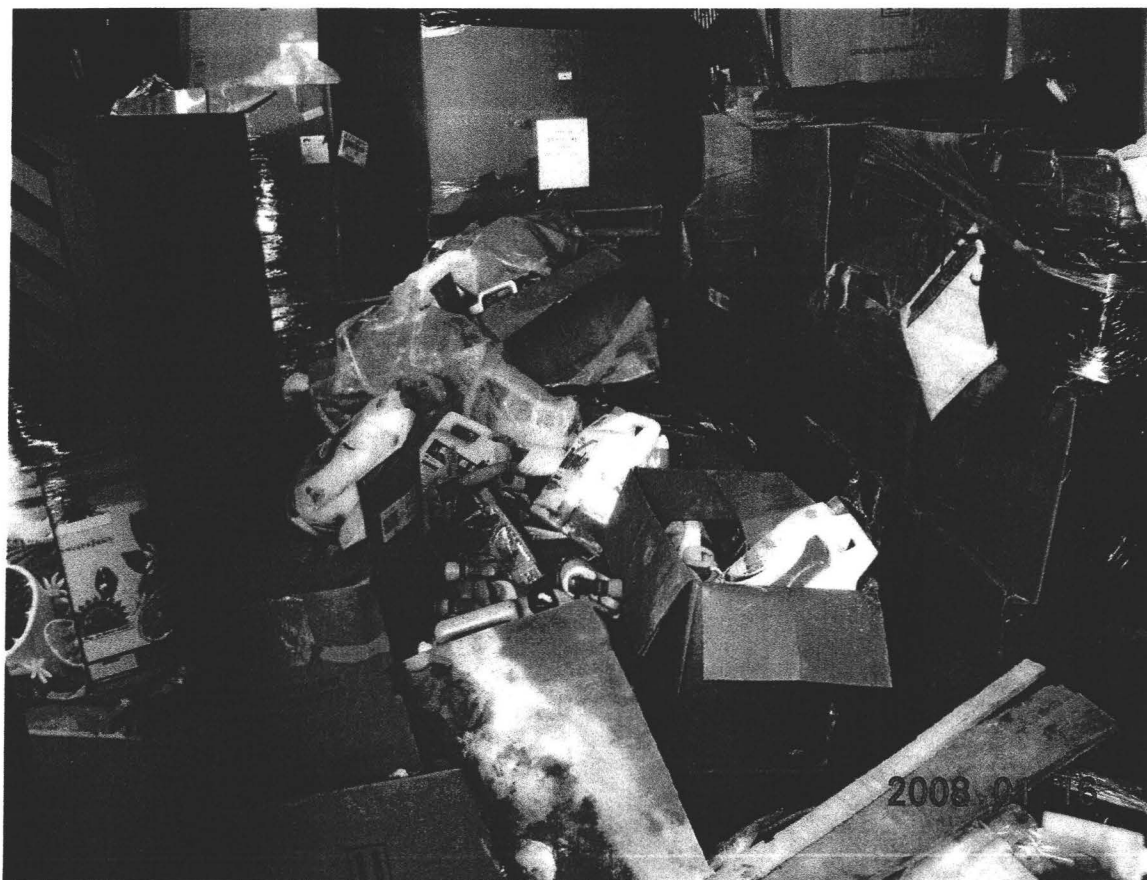
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: View of liquid Sevin, a U279 listed hazardous waste in Building 2. Note that it is leaking and improperly containerized. The container does not have the proper marking or labels.



Picture 16

Date: January 16, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of spilled liquid waste in Building 2. Notice the inadequate aisle space for personnel and emergency equipment.



Picture 17

Date: January 16, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of spilled liquid waste in Building 2.



Picture 18

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of spilled dry material in Building 1.



Picture 19

Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of spilled dry material in Building 1. Notice the inadequate aisle space for personnel and emergency equipment.



Picture 20

Date: January 16, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Description: An example of spilled dry pesticide outside near Building 3.



Matt Blunt, Governor • Doyle Childers, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

MEMORANDUM

DATE: March 4, 2008

TO: Hazardous Waste Enforcement File
Greenleaf, L.L.C.
Neosho, Missouri
MOR000526152

FROM: Candace Bias
Hazardous Waste Enforcement Unit
Hazardous Waste Program

SUBJECT: Site Visit – Greenleaf, L.L.C.
Neosho, Newton County, Missouri

On January 15 and 16, 2008, Mr. David Allison of the Missouri Department of Natural Resource's Southwest Regional Office and I visited Greenleaf, L.L.C. (Greenleaf), located at 13960 Palm Road in Neosho, Missouri. On January 8 and 9, 2008, the Missouri Department of Agriculture inspected Greenleaf and found violations of pesticide laws and regulations. They placed the pesticides in violation under a Stop Sale, Use, or Removal Order (SSURO). Due to the SSURO, the department decided to visit the site.

We spoke with Mr. Robert Applegarth, Plant Manager, and explained that the purpose of our visit was to evaluate Greenleaf's current compliance with hazardous waste laws and regulations. Mr. Allison then suggested that Greenleaf have their environmental consultant be present for the site visit. Mr. Applegarth contacted Mr. David Harsh of Harsh Environmental and he agreed to meet on site later in the day. Mr. Applegarth explained that when he took the position at Greenleaf, he had informed the owner, Mr. Tom Smith, that he was good at getting people to work and at getting people to pay their bills, but was not experienced in environmental issues. Greenleaf originally hired Ms. Mindy Becker to handle their environmental compliance issues, including obtaining the necessary pesticide registrations from the U.S. Environmental Protection Agency. Formerly, she handled environmental affairs for Wal-Mart and was in a senior position with the company. She worked at the Greenleaf location previously managing the site. Apparently there were issues with employees not being at work when they were supposed to be so she no longer works at Greenleaf in Neosho. Mr. Applegarth attributed many of their current business practices to Ms. Becker, including registering Greenleaf as a large quantity generator of hazardous waste, instructing them to place multiple pesticides into the large piles, and bulking and managing the liquid waste as non-hazardous.

Mr. Applegarth explained that all the material that Greenleaf receives comes from Wal-Mart Distribution Centers. Greenleaf is to repackage the material so that none of the original labeling or packaging remains on the product. Mr. Applegarth attributed much of their compliance issues to the large volume that Greenleaf receives from Wal-Mart. Wal-Mart is not supposed to send

Hazardous Waste Enforcement File
Greenleaf, L.L.C.

EPA ID #MOR000526152

March 4, 2008

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Greenleaf any liquids. When Mr. Applegarth started working at Greenleaf, Wal-Mart was sending pesticide and fertilizer liquids. He stated Greenleaf had to repeatedly inform Wal-Mart that their Distribution Centers were still sending liquids. Mr. Applegarth reported that Wal-Mart finally stopped sending liquids approximately "three weeks to a month ago". I asked how many drums of liquid waste Greenleaf currently has on site, and he estimated between twenty to thirty drums.

We then reviewed the paperwork that Mr. Applegarth had on site. I asked for the manifests or shipping papers for the liquid waste that they had shipped. He provided two copies of manifests from the shipment of drums of liquid from Greenleaf. On July 5, 2007, 104 fifty-five-gallon drums of liquid waste pesticide were shipped, and on November 16, 2007, another 88 fifty-five-gallon drums of liquid waste pesticides were shipped. I asked for any sampling results from the testing of the liquid that was sent off site for disposal. He did not know if he had any information on testing. He eventually found two separate analytical sampling results and provided us with copies. The "Analytical Laboratory Report", dated December 11, 2006, from Primary Laboratories, Incorporated, in Mechanicsville, Virginia, showed that a sample dated November 26, 2006, from Wal-Mart in Texas flashed and failed for arsenic with just a cursory review of the results. A second document entitled "Waste Material Profile Form", dated March 8, 2007, from Giant Resource Recovery, Incorporated, in Arvon, Virginia, stated "Packaged products that contain household pesticide solutions that have been tested and are only [Resource Conservation and Recovery Act] RCRA hazardous for being flammable (see attached MSDS)". The attachment was a material safety data sheet for Ortho Season-Long Grass & Weed Killer Ready-to-Use.

I asked Mr. Applegarth who had decided the liquid waste could be shipped as non-hazardous. He stated Ms. Becker was responsible for the first shipment and he shipped the second shipment the same way because that was how it was done before. He also found a copy of a bill for pesticide disposal from Giant Resource Recovery Aerosols in Attalla, Alabama. Mr. Applegarth told us that he believes Wal-Mart pays for the disposal of liquids from Greenleaf.

I asked if he could demonstrate that Greenleaf had customers for their products, such as contracts with retailers or evidence of contacts with retailers. He gave us a flyer that Greenleaf sends as direct mail to greenhouses, landscapers, and the like. He showed us copies of the "Incoming Shipment Check-In Sheets" that Greenleaf uses when they receive material from Wal-Mart. The Incoming Shipment Check-In Sheets include dates, total weight, and five categories of material shipped with tic marks in the quantity column to indicate the amount shipped. He did not have the shipping papers or bills of lading that came with the material. He stated he believes that Smith Trucking keeps copies of the bills of lading. Mr. Applegarth brought us a three-ring binder from the front counter of the store that he believed contained all the Material Safety Data Sheets for the materials on site for us to review.

Greenleaf sends Wal-Mart a certification that the material is recycled when they receive it. However this certification does not assure that the material has been managed and bagged under the Greenleaf name. Only a small fraction of the material received has actually been legitimately recycled.

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It was also noted that while Greenleaf is registered as a large quantity generator, they had not reported as required by law. There was not a contingency plan or training plan for the facility. Mr. Applegarth was not familiar with hazardous waste laws and regulations.

After reviewing the documents, we decided to visit the warehouse Greenleaf had rented. Mr. Applegarth stated that Greenleaf no longer rents the warehouse but that he still had the keys to it because he was returning the keys to the owner later in the day. The warehouse is located at 1300 Howard Bush Drive in the Crowder Industrial Park in Neosho. There were no materials currently stored in this building. We broke for lunch.

Upon returning to Greenleaf we met with Mr. Harsh and Mr. Applegarth to go over some background regarding the site. We also discussed that because Greenleaf was registered as a large quantity generator but had not reported quarterly to the department as required, they would likely receive a Notice of Violation for failure to report. We then began the walk through of the Greenleaf facility. The facility is comprised of three metal buildings and three uncovered, outdoor storage areas. Discussion of each of the buildings and the outdoor storage areas are found under separate headings.

Building 1

Building 1 houses the pesticide production area, the store where Greenleaf sells to the public, and a storage area. We first went to the pesticide production area in Building 1 in the north end of the building. Pesticide production is simple and time consuming. Employees open bags of dry pesticide and fertilizers and dump their contents into one of four large piles or into Gaylord boxes. Greenleaf then sells the bulk dry material, or material that they have bagged, to customers. There is no bagging equipment at the site. Employees fill bags by hand and have no worker protection equipment. Because there is no automation of processes, only a small volume of material can be handled at one time.

The room was disorganized. Aisle space was inadequate for inspection so I accessed the rest of the room by climbing over Gaylord boxes of material. The boxes were dusty and there was evidence of dry spills throughout the building on both the floor and on other material in storage. Cleanup of dry spills was done by an employee with a push broom. Most of the materials in this area were dry pesticides; however I did locate some liquid pesticides in the back of the room among other material. An unlabeled Gaylord box that employees of Greenleaf had emptied bagged material into had two distinct colors of granular material. The box appeared to contain a mixture of two source materials that could be a waste (see photographs)

On the farthest east wall of Building 1 there were four distinct piles of granular material. Pile 1 (the pile farthest north or starting from the left and numbering to the right) was called the Flea and Tick granule pile and was under a Missouri Department of Agriculture SSURO. Mr. Applegarth stated that it contained "everything with flea and tick granules". He stated that there were multiple pesticide registrations in the pile and that they had never sold anything from the pile. Pile 1 is approximately ten tons in size. Pile 2 was labeled on the wall above the pile as "High Nitrate w/o Weed Killer 21% 175.00/ton" and was not under a SSURO. Pile 3 was labeled "Low Nitrate \$130.00 tn 6%" and was not under a SSURO. Pile 4, the pile closest to the overhead door and containing approximately 10 tons of material, was labeled "High Nitrate 20% 150.00 a ton" and was under a SSURO. Mr. Applegarth described the pile as having over 20

percent nitrate with a herbicide. He stated that there were between three to five different types of fertilizer with herbicides in the pile. All the piles appeared to be from several sources. They contained multiple colored granules and were not homogeneous (see photographs).

Mr. Applegarth informed me that they now operate by emptying only the same pesticide registration number in a box and no longer allows multiple pesticide registrations to be placed in the same box.

Greenleaf containerized floor sweepings in a drum near the overhead door. The material in the drum was granular and was not homogeneous. The 55-gallon drum was less than one-third full and was labeled "Greenleaf Floor Sweep."

Mr. Applegarth pointed out several items that were unacceptable items for Wal-Mart to send. These unacceptable items included bags with granular material that had no labeling, broken bags that had spilled into the Gaylord boxes, and items marked for disposal (see photographs).

We then viewed the items under the SSURO in the center of Building 1. These pesticides were palletized and behind the shelving of the main store room. Near the pesticides that are under the SSURO were miscellaneous lawn and garden items in a box. Because of the type of packaging that these items were in, Greenleaf would be unable to repackage them. I asked Mr. Applegarth about the status of the items in the box. He stated that they were from Wal-Mart and that Greenleaf could not use them. I asked if the items were wastes and he said they were (see photographs).

The rest of Building 1 was divided between their store where they sell to customers and storage. The store had both open boxes of products that customers could purchase in bulk, including products such as birdseed, fertilizer spikes, Duraflame type logs and material that had been bagged with the Greenleaf label. There were minor dry spills in the store. The storage area contained mainly non-liquid pesticides, kitty litter, and fertilizer. The storage area was packed to the ceiling and I was unable to inspect all of the materials contained in it.

Building 2

Building 2 is a fully enclosed metal building with two entrances. It was packed full of Gaylord boxes on pallets and smaller, lined boxes stacked together on pallets. The path through the building was small and we were unable to look at the majority of the pallets. Besides the waste storage area, the east half of Building 2 was not inspected due to inadequate aisle space. The building held approximately 520 pallets of material.

At the back side of Building 2, Mr. Applegarth had stored the empty 55-gallon drums on their side, secured with a chain and labeled "Empty" as Mr. Allison had advised him to do during his previous December 4, 2007, site visit. Inside the north side of Building 2 was the liquid disposal area. This is where individual liquid containers are poured into 55-gallon drums and stored prior to disposal. There were seven 55-gallon drums in the area where liquids were being consolidated into drums. Five 55-gallon drums were full, one white poly drum was approximately three quarters full and another white poly drum was approximately one-third full. The drums had

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unclosed yellow funnels on top. The liquid waste storage area was in the very north east corner of the building. There were twenty-eight 55-gallon drums of liquid in waste storage. I asked Mr. Applegarth what his plans were for the drums. He stated that Greenleaf is waiting to get a load together large enough to send out of state for disposal.

In Building 2 I opened boxes to see what was inside. Liquid pesticides and fertilizers were stored in the boxes. An estimated one-third of the containers of liquids observed were damaged and leaking. Some leaking containers had been placed in zipper type closure bags. Some liquids still had the return slip on the bottle. The liquids had been returned to Wal-Mart for a variety of reasons including 'doesn't work', 'broken cap', and 'spray nozzle doesn't work'. I observed staining on boxes that appeared to be from leaking liquid containers. Some liquids had spilled on the floor and had not been cleaned up. There were also boxes of aerosol cans that could not be repackaged and sold to customers.

Outdoor Storage Area between Building 2 and Building 3

The area between Building 2 and Building 3 was completely full of pallets of material. The pallets were approximately 37 in number in length, and 11 in number wide, yielding an estimated 407 pallets. Most of the material appeared to be charcoal and potting soil. There was no pathway to walk between or among the pallets, however Mr. Allison did climb through the palletized material and located some dry pesticides. Mr. Allison identified the pesticide's location for Mr. Applegarth and he indicated that his employees would move the pesticides indoors. The packaging and boxes had deteriorated due to exposure to the elements and appeared to have been stored outdoors for some time. We were unable to inspect the contents of most of the palletized material because many had black outer wrappings, were in cardboard boxes, or were tightly shrink wrapped. Even pallets that appeared to contain innocuous materials like potting soil could have pesticides at the center of the pallet or under the top layer of material.

Building 3

Material is stored under roof but only two sides are enclosed, the east and west sides are open. In Building 3, pallets were approximately 30 in number in length and 24 in number wide, in areas stacked two to three high, yielding an estimated 720 pallets. Most of the material appeared to be charcoal and potting soil. Aisle space was inadequate for inspection. There was no pathway to walk between or among the pallets; however I did climb through the north end of the building to view drums. Another six drums of liquid waste were located at the northeast corner of Building 3. Mr. Applegarth did not know why they were not stored with the other drums in Building 2, but he did identify them as waste liquids. I located one Gaylord box that contained pesticides. I was unable to inspect the contents of the palletized material because of their condition.

Outdoor Storage Areas near Building 3

Behind Building 3 to the north there were approximately 155 pallets of material located adjacent to and partially in a pond. Most of the material appeared to be charcoal and potting soil. The packaging and boxes had deteriorated due to exposure to the elements and appeared to have been

stored outdoors for some time. We were unable to inspect the contents of the palletized material because of their condition.

To the west of Building 3 more material was stored outdoors. Approximately 480 pallets were in the area (48 pallets long by 10 pallets wide). Most of the material appeared to be charcoal and potting soil. The packaging and boxes had deteriorated due to exposure to the elements and appeared to have been stored outdoors for some time. We were unable to inspect the contents of

most of the palletized material because of their condition. While walking the property line to the west of this grouping of pallets, I identified three separate locations where there were pesticides. I identified the areas to Mr. Applegarth and he told me that the pesticides would be moved inside today. The pesticides identified outdoors in this pile included Sevin dust which contains carbaryl, a U279 listed hazardous waste. I informed Mr. Applegarth that Sevin can be a hazardous waste if it is store in a waste-like manner. At the south end of this grouping of pallets was the area that soil was debagged and stored.

To the south of Building 3 there was more material stored outdoors. Approximately 72 pallets were in the area (24 pallets long by 3 pallets wide). Most of the material appeared to be potting soil, however a pesticide named Moss Out was identified in one of the boxes. Mr. Applegarth stated that he would have his workers move that material inside as well.

January 16, 2008 (inspection continued)

Mr. Allison and I returned the following day on January 16, 2008. In Building 2 I found some liquid Sevin. Sevin contains carbaryl which is a listed U279 hazardous waste. The container was in a clear bag that was knotted at the top and had leaked (see photographs). I informed Mr. Applegarth that liquid Sevin in this condition without a use was a hazardous waste. We proceeded outdoors to inspect the areas where the pesticide was to have been removed by Greenleaf employees. At the first location where I had identified pesticides being stored outdoors, most of the pesticides had been removed. However, employees had missed two cans and a large bag of pesticides. I identified some more pesticides stored outside. At one location a can containing dry pesticide had been broken and was lying in the gravel. The container no longer had any pesticide in it. The other two areas where I had pointed out pesticides had been taken care of.

Greenleaf's Pineville, Missouri location

We left the 1390 Palm Road, Neosho location and traveled to Greenleaf's new facility in Pineville, Missouri. The previous business at the location was a bagging facility for charcoal briquettes. Greenleaf rented the facility within the last month to get their bagging operations going. They already had approximately 35 semi-trucks of material stored indoors. The material included pesticides, fertilizers, potting soil, and charcoal.

At the Pineville facility there were two sets of equipment for bagging product. There was one employee working at the facility. He was attempting to repair the bagging equipment. We discussed with Mr. Applegarth that if a listed pesticide was bagged in the room then special requirements would be needed. We recommended that Greenleaf dedicate one set of equipment to pesticides only. Because both machines are in the same room and are close in proximity to

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each other, we suggested that Greenleaf place a partition between the two bagging machines so that the listed pesticide waste did not contaminate other items that they were bagging. Finally we discussed how waste from any listed pesticide would be a hazardous waste, including spill cleanup, floor sweepings, contaminated equipment, and the like. Mr. Applegarth told us that currently at Greenleaf's Neosho facility they can only produce 60 bags of product a day. At this new facility, once it is operational, should be able to produce 2,000 bags a day.

Closing

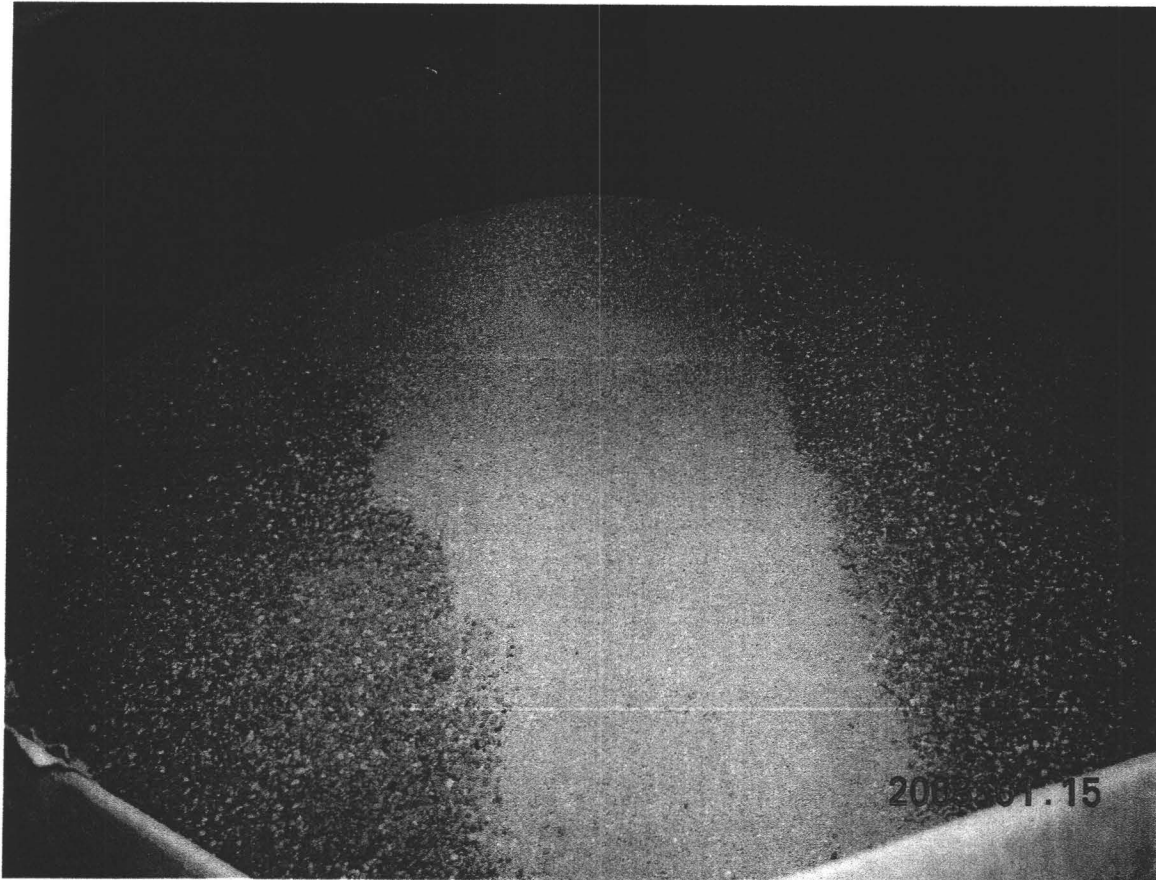
We then returned to the main facility in Neosho. I told Mr. Applegarth that the liquid in the drums would need to be analyzed for hazardous waste and that they should not be moved from the site. I asked that no more liquids be "poured up" into 55-gallon drums until their environmental contractor had explained their liquid waste handling procedures to me. I explained my concerns regarding the piles of waste and floor sweepings.

I told Mr. Applegarth that Greenleaf was now in the enforcement process because of the violations observed. I indicated that a Notice of Violation would result from this site visit and described the steps in the enforcement process. Mr. Applegarth stated he was upset that the department had not given him more time to get the facility into compliance since our last inspection was only a month before. I explained that it was very likely that a penalty would be assessed in this situation. Mr. Applegarth asked if there was a way to avoid a penalty entirely. I told him it was not likely and informed him of some of the factors that may mitigate their penalty amount. I advised him that penalties are also based on the number of days that a business is out of compliance so it would be in Greenleaf's best interest to get into compliance as quickly as possible. He also asked me to give him an idea of the amount of the penalty but I stated I could not answer that question.

CB:ml

Attachment

Photographs for Site Memo
Greenleaf, L.L.C.
Neosho, MO



Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of the Gaylord box containing two colors of granular material in Building 1.



Date: January 16, 2008

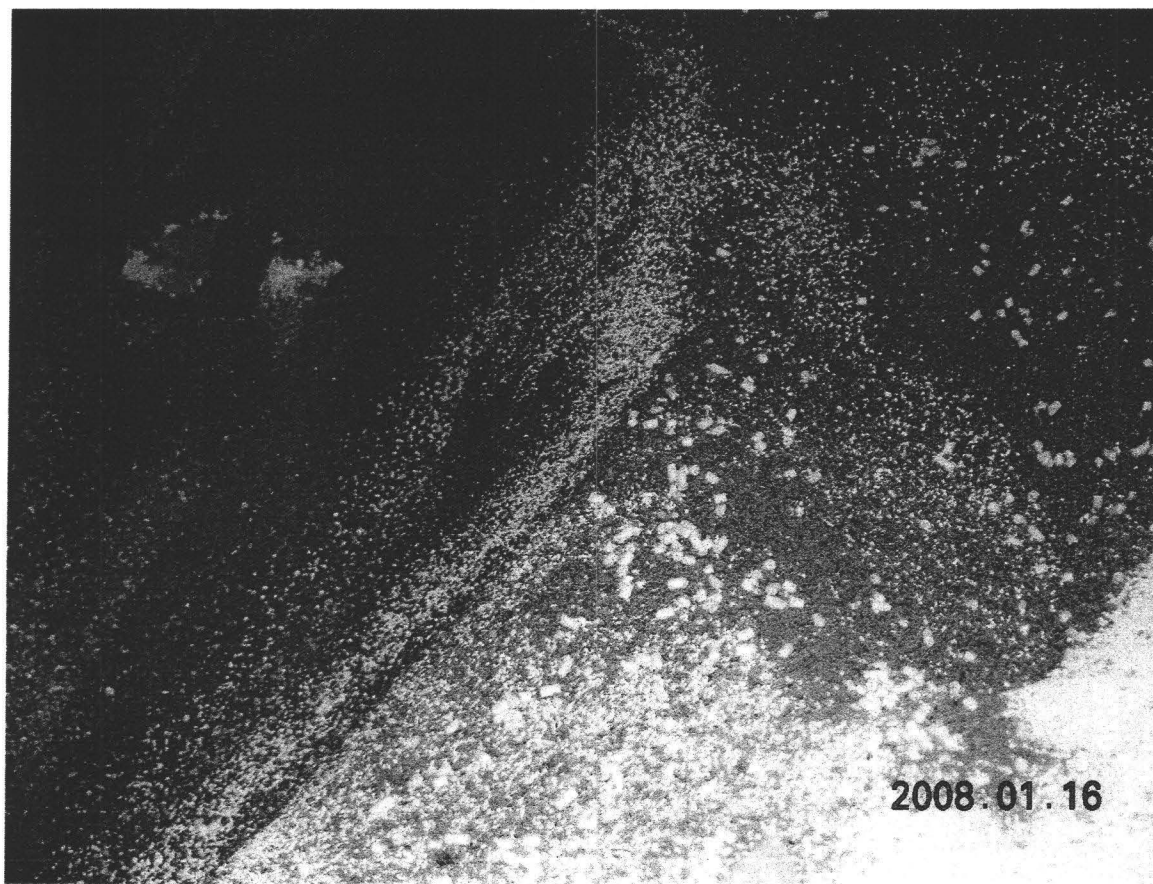
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of Pile 1 in Building 1. The pile is granular pesticide under the SSURO. The dry pesticide is from several different sources including Sevin, which contains carbaryl, a U279 listed hazardous waste.



Date: January 16, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Up close view of Pile 1 in Building 1. The pile is granular pesticide placed under an EPA SSURO. The dry material is from several different sources. Note multiple colors and sizes of grains.



Date: January 16, 2008

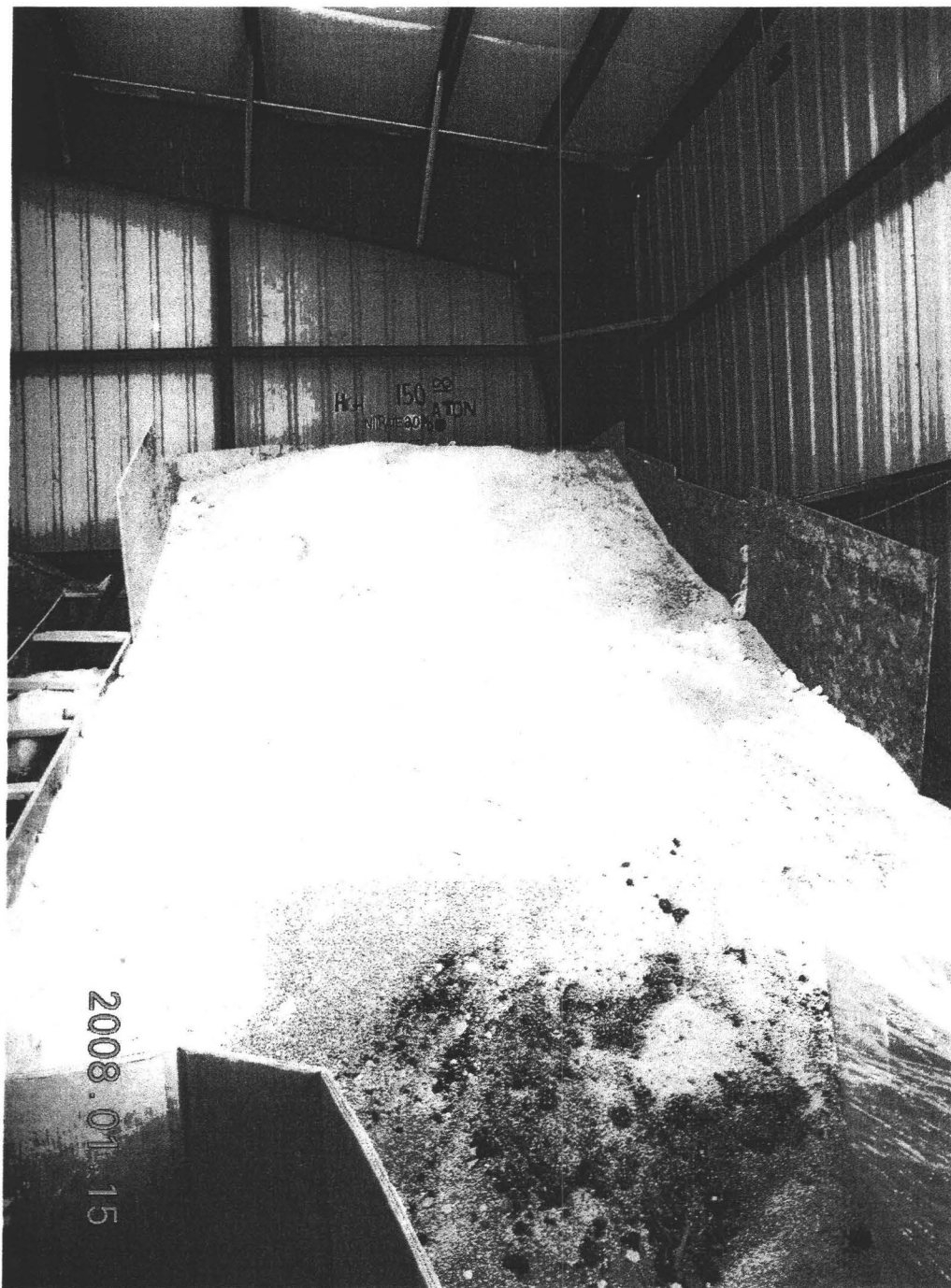
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

Up close view of Pile 1 in Building 1. The pile is granular pesticide placed under an EPA SSURO. The dry material is from several different sources. Note multiple colors and sizes of grains.



Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of granular material in Pile 4 in Building 1. The dry fertilizer with herbicide is from several different sources. The pile contains 2,4-D.



Date: January 15, 2008

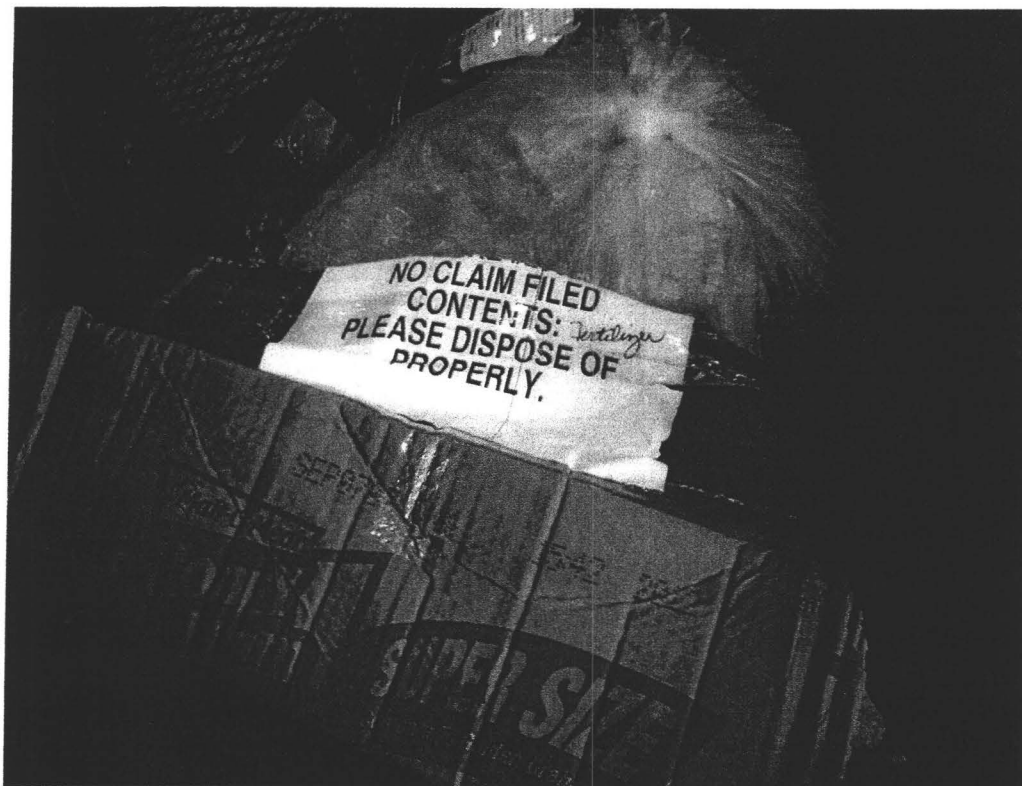
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of Gaylord box with spilled pesticides and unidentified bags in Building 1.



Date: January 15, 2008

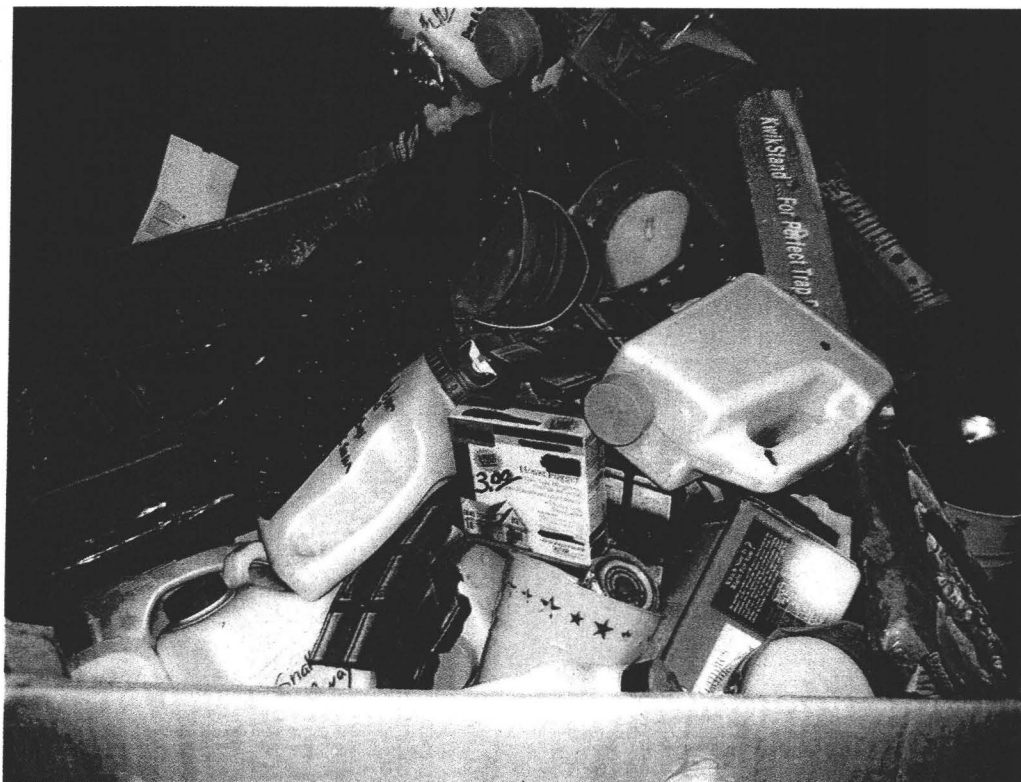
Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of unidentified material marked for disposal in Building 1.



Date: January 15, 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of waste located near SSURO items in Building 1.



Date: January 16 2008

Site: Greenleaf, L.L.C.

MOR000526152 and 042018

13960 Palm Road, Neosho, MO 64850

Photographer: Candace Bias

View of liquid Sevin, a U279 listed hazardous waste in Building 2. Note that it is leaking and improperly containerized.